

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

AVENTIS PHARMACEUTICALS INC. and  
SANOFI-AVENTIS US LLC,

Plaintiffs,

v.

BARR LABORATORIES, INC.

Defendant.

C.A. No. 06-286 (GMS)

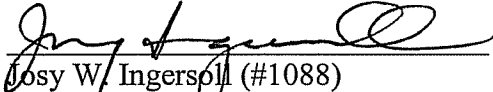
**BARR LABORATORIES' RULE 12(b)(6)  
MOTION TO DISMISS PLAINTIFFS' WILLFUL INFRINGEMENT CLAIMS  
OR, ALTERNATIVELY, TO BIFURCATE AND STAY DISCOVERY ON THEM**

Defendant Barr Laboratories, Inc. ("Barr"), by and through its undersigned counsel, hereby respectfully moves the Court to dismiss Plaintiffs' willful infringement claims for failure to state a claim or, alternatively, to bifurcate and stay discovery on them to avoid prejudicing Barr and promote judicial economy. The basis for this motion is more fully set forth in Barr's Opening Brief filed contemporaneously herewith. A proposed form of Order is attached.

Dated: May 31, 2006

Respectfully submitted,

BARR LABORATORIES, INC.

By:   
Josy W. Ingersoll (#1088)  
Karen L. Pascale (#2903)  
Karen E. Keller (#4489)  
YOUNG CONAWAY STARGATT &  
TAYLOR, LLP  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, Delaware 19899  
Tele: (302) 571-6672  
jingersoll@ycst.com

George C. Lombardi  
Maureen L. Rurka  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
Tele: (312) 558-5600  
Fax: (312) 558-5700

*Attorneys for Defendant Barr Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I, Josy W. Ingersoll, Esquire, hereby certify that on May 31, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Steven J. Balick, Esquire  
John G. Day, Esquire  
Tiffany Geyer Lydon, Esquire  
ASHBY & GEDDES  
222 Delaware Avenue, 17th Floor  
P.O. Box 1150  
Wilmington, DE 19801

I further certify that on May 31, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

**BY EMAIL**

Paul H. Berghoff, Esquire	berghoff@mbhb.com
Joshua R. Rich, Esquire	rich@mbhb.com
Jeremy E. Noe, Esquire	noe@mbhb.com
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP	
300 South Wacker Drive	
Chicago, Illinois 60606	

  
\_\_\_\_\_  
Josy W. Ingersoll (#1088)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

AVENTIS PHARMACEUTICALS INC. and  
SANOFI-AVENTIS US LLC,

Plaintiffs,

v.

BARR LABORATORIES, INC.

Defendant.

C.A. No. 06-286 (GMS)

**ORDER**

Barr Laboratories, Inc. having moved to dismiss Plaintiffs' willful infringement claims,  
and the Court having considered the parties' submissions thereon,

IT IS HEREBY ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2006, that Plaintiffs'  
willful infringement claims are hereby dismissed.

---

U.S.D.J.